

Order

Michigan Supreme Court
Lansing, Michigan

June 23, 2010

Marilyn Kelly,
Chief Justice

139699 & (15)

Michael F. Cavanagh
Elizabeth A. Weaver
Maura D. Corrigan
Robert P. Young, Jr.
Stephen J. Markman
Diane M. Hathaway,
Justices

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellee,

v

SC: 139699
COA: 292610
Macomb CC: 2005-000344-FC

JASON ALEXANDER LAROSE,
Defendant-Appellant.

By order of March 29, 2010, the defendant's former appellate counsel was directed to file a supplemental brief. On order of the Court, the brief having been received, the application for leave to appeal the July 27, 2009 order of the Court of Appeals is again considered and, pursuant to MCR 7.302(H)(1), in lieu of granting leave to appeal, we REMAND this case to the Court of Appeals. That court shall treat the defendant's application for leave to appeal as having been timely filed and shall decide whether to grant, deny, or order other relief, in accordance with MCR 7.205(D)(2). We conclude that the defendant was deprived of his direct appeal as a result of constitutionally ineffective assistance of counsel. See *Roe v Flores-Ortega*, 528 US 470, 477; 120 S Ct 1029; 145 L Ed 2d 985 (2000); *Peguero v United States*, 526 US 23, 28; 119 S Ct 961; 143 L Ed 2d 18 (1999). On the facts of this case, counsel performed ineffectively by deciding to present motions in the trial court despite knowing that the deadline for filing such motions had passed at the time that he was retained, and by failing to timely file defendant's application for leave to appeal within the deadlines set forth in MCR 7.205(F). These actions and omissions were the "but-for" cause of defendant's lost appeal.

Costs are imposed against the attorney, only, in the amount of \$250, to be paid to the Clerk of this Court.



s0616

I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

June 23, 2010

Corbin R. Davis

Clerk